

CHAPTER 25. QUALIFIED ZONE ACADEMY BOND PROGRAM

SUBCHAPTER 1. GENERAL PROVISIONS

6A:25-1.1 Purpose and applicability of rules

(a) These rules are intended to implement the Qualified Zone Academy Bond (QZAB) Program in this State. Under 26 U.S.C. § 1397E, bond cap is allocated to the Department of Education, for bonds issued by the State, to be used by public schools with needy populations (qualified academy zones) for Federally qualified purposes such as to rehabilitate and repair schools providing such schools develop an educational plan in cooperation with business to expand learning opportunities. Bondholders receive a tax credit as an incentive for holding such bonds and the issuer (in this case, the New Jersey Economic Development Authority) is only responsible for paying the principal of the QZAB bonds, subject to State contract and appropriation from legislation. These rules outline for districts, bondholders, private entities, and others the implementation of this program. As in the initial phase of the QZAB Program, the NJEDA will issue QZABs for the State share of the costs of rehabilitation school facilities projects for qualified zone academies. Because these rules contemplate QZABs as a way of financing the costs of school facilities projects approved pursuant to the Educational Facilities Construction and Financing Act (EFCFA), P.L. 2000, c.72, frequent reference is made in these rules to EFCFA and the Department of Education rules implementing EFCFA at N.J.A.C. 6A:26.

(b) These rules apply to all district boards of education in the State as well as to the bondholders and private entities that participate in the State QZAB Program.

6A:25-1.2 Definitions

(a) As used in this chapter, unless the context clearly indicates otherwise, the following words and terms shall have the following meanings:

"Comprehensive education plan" means a plan established by the qualified zone academy in conjunction with one or more private entities to provide education and training to enhance the academic curriculum, increase graduation and employment rates, and better prepare students for the rigors of college and the workforce.

"EFCFA" means the Educational Facilities Construction and Financing Act, P.L. 2000, c.72 (N.J.S.A. 18A:7G-1 et seq.).

"Initial phase of the QZAB Program" means the phase of the QZAB Program funded with QZABs issued in 2001 to finance the State share of rehabilitation school facilities projects in qualified zone academies eligible for a qualified contribution from a private entity.

"New Jersey Economic Development Authority" or "NJEDA" means the authority established pursuant to N.J.S.A. 43:1B-1 et seq.

"Private entity" means any person (as defined in section 7701(a) of the Internal Revenue Code) other than the United States, a State or local government, or any agency or instrumentality thereof that enters into a collaboration with a school or school district for the purpose of establishing a qualified zone academy, and making a qualified contribution pursuant to the requirements of the Act and these guidelines. A private entity may be an individual, a trust, a partnership, or a non-profit organization as well as a for profit corporation, and for the initial phase of the QZAB Program is the private entity providing telecommunications access to districts via a State-wide program through three-year contracts with districts beginning in 2000 or 2001, and beyond the initial phase, may be the private entity providing discounted telecommunications access to districts via a Statewide program.

"Qualified zone academy" means any public school (or academic program within a public school) which is established by and operated under the supervision of a district and that meets the eligibility criteria of the QZAB Program.

"Qualified contribution" means contributions made by private entities that are of a type and quality acceptable to the qualified zone academy, and consist of technical assistance in developing curriculum or in training teachers, services of employees as volunteer mentors, internships, field trips, or other educational opportunities for students, or any other property or service specified by the qualified zone academy. Cash received from a private entity constitutes a qualified contribution if it is used to purchase any property or service described above. For the initial phase of the QZAB Program, the qualified contribution means the prospective telecommunications access provided to districts via a Statewide program through three-year contracts with districts beginning in 2000 or 2001, and beyond the initial phase, may mean the prospective telecommunications access provided to districts via a Statewide program.

"QZAB funding" means the financing of school facilities projects through QZABs issued pursuant to the QZAB Program.

"QZAB Program" means this State's implementation of the Federal qualified zone academy bond provisions of 26 U.S.C. § 1397E, which shall consist of the initial phase and subsequent phases, subject to Federal appropriation available therefor.

"Rehabilitation" means the definition of this term provided in 26 U.S.C. § 47, which is broader than the meaning defined in N.J.A.C. 6A:26-1.2, because the Federal meaning encompasses both rehabilitation as that term is defined in N.J.A.C. 6A:26-1.2 and attached additions to existing school facilities. Such additions generally increase the gross square footage of the original facility.

(b) Terms not defined in this chapter shall have the meanings defined for qualified zone academy bonds by 26 U.S.C. § 1397E and regulations thereunder (see 26 CFR 1.1397E-1) and the meanings defined for the State program of school construction under EFCFA and N.J.A.C. 6A:26.

SUBCHAPTER 2. ELIGIBILITY FOR QZAB FUNDING

6A:25-2.1 School requirements

(a) To qualify for designation as a qualified zone academy and receive QZAB funding, a school shall:

1. Be in a district as that term is defined in N.J.S.A. 18A:7G-3 and N.J.A.C. 6A:26-1.2; and
2. Have a student body composed of at least 35 percent of students that qualify for the Richard B. Russell National School Lunch Program based on a reasonable expectation as of the date of issuance of the QZABs; or be located in a Federal empowerment zone; or be located in a Federal enterprise community.

(b) The district or the Division on behalf of the district must supply the eligibility information required by (a) above for each school seeking designation as a qualified zone academy on the QZAB application form.

6A:25-2.2 QZAB project requirements

(a) To be eligible for QZAB funding, a school facilities project shall:

1. Be located in a school facility of a school that qualifies pursuant to N.J.A.C. 6A:25-2.1(a);
2. Be included in a district's approved long-range facilities plan even if the project was originally approved as a waiver project under section 4b of EFCFA (N.J.S.A. 18A:7G-46) or a retroactive project under section 9c of EFCFA (N.J.S.A. 18A:7G-9c) prior to the approval of the district's long-range facilities plan;
3. Be approved as a school facilities project by the Department as follows:
 - i. Pursuant to N.J.A.C. 6A:26-3.3;
 - ii. Pursuant to section 4b of EFCFA; or
 - iii. Pursuant to section 9c of EFCFA;
4. Not be completed at the time of submission of an application for QZAB Program funding;
5. Consist of rehabilitation work, including equipment related to the rehabilitation of the school facility that houses a qualified zone academy; and
6. Be located in a school facility eligible for a private business contribution by a private entity.

(b) A district or the Division on behalf of a district, may apply for one or more school facilities projects in one or more school facilities, provided that each school and each project meet all of the requirements to qualify for the QZAB Program under this chapter.

6A:25-2.3 Private collaboration requirement

(a) The district shall establish, via written commitment, a collaboration between the school and one or more private entities under which the private entity evidences in writing that it will make a contribution having a present value (as of the date of issuance of the issue) of not less than 10 percent of the proceeds of the bond issue.

(b) Contributions by the private entity shall be described and may include:

1. The following general types of contributions:

i. Equipment for use in the qualified zone academy (including technology and vocational equipment);

ii. Technical assistance in developing curriculum or in training teachers in order to promote appropriate market driven technology in the classroom;

iii. Services of employees as volunteer mentors;

iv. Internships, field trips, or other educational opportunities outside the qualified zone academy for students;

v. Any other property or service specified by the district; or

vi. Cash received if such monies are used to purchase any property or services described in i through v above; and/or

2. For purposes of the initial phase of the QZAB Program, discounted telecommunications access for use in the qualified zone academy eligible to participate in the Statewide telecommunications access program under a three-year contract commencing 2000 or 2001 between a private entity and the district. After the initial phase, the prospective benefit received by a qualified zone academy from a Statewide discounted telecommunications access program between a private entity and the district may also satisfy the private collaboration requirement.

(c) Services of employees of the qualified zone academy do not constitute qualified contributions.

6A:25-2.4 Comprehensive educational plan requirements

(a) The qualified zone academy or district on behalf of the qualified zone academy shall design a comprehensive educational plan in cooperation with business to enhance the academic curriculum, increase graduation and employment rates, and better prepare students for the rigors of college and an increasingly complex workforce.

(b) The private entity may be a business that cooperates in the design of the comprehensive educational plan.

(c) Students enrolled in the qualified zone academy shall be subject to the same standards and assessments as other students in the district.

(d) The district shall approve the comprehensive educational plan prior to the submission of an application to the Division for QZAB funding.

SUBCHAPTER 3. APPLICATION FOR QZAB FUNDING

6A:25-3.1 Application requirements

(a) Any district seeking to initiate a school facilities project funded by a QZAB shall, on a form provided by the Commissioner, apply to the Division for approval of the school facilities project for QZAB funding. As in the initial phase of the QZAB Program, the Division on behalf of a district may supply the information required to complete the application.

(b) The application must demonstrate that the school facilities project meets the requirements for participation in the QZAB Program, as set forth in N.J.A.C. 6A:25-2.1 through 2.4, as well as the Federal requirements set forth in 26 U.S.C. § 1397E and regulations thereunder (see 26 CFR 1.1397E-1).

(c) The application must include the following information:

1. Evidence that the school facilities project is for a school facility meeting the school location or student body composition requirements of N.J.A.C. 6A:25-2.1;

2. Evidence that the school facilities project has been approved by the Division for rehabilitation, pursuant to N.J.A.C. 6A:25-2.2;

3. A copy of the comprehensive educational plan approved by the district, pursuant to N.J.A.C. 6A:25-2.4;

4. Certification by the issuer that it has the written commitment of the private entity to satisfy the private contribution requirement pursuant to N.J.A.C. 6A:25-2.3. This requirement may also be satisfied by the issuer's certification that it has the written commitment of the private entity to make qualified contributions for one or more qualified zone academy district applicants sufficient to meet the private contribution requirement for each such district applicant; and

5. Certification by the issuer that it has the written approval by the district of the QZAB bond issuance, which for the initial phase of the QZAB Program may be a certification by the issuer that the application for QZAB funding has been signed by a party authorized by the district board of education.

(d) A district applying for QZAB funding may submit to the Division an application for one or more school facilities projects for which it is seeking such funding, provided that the application satisfies the requirements of this subsection for each school facilities project.

6A:25-3.2 Application review and approval

(a) Applications for the initial phase of the QZAB Program applications will be accepted from districts beginning on December 5, 2001. For subsequent phases of the QZAB Program, the Division shall notify districts of the deadline for accepting applications.

(b) The Division will review each application to determine if it is accurate and complete. If the application is determined to be incomplete, the Division shall inform the district in writing, listing all deficiencies and missing required information. If the application is determined to be complete, the Division will review the application within 30 days of receipt, except in the case of the initial phase of the QZAB Program, in which all applications will receive expedited review prior to the issuance of the QZABs.

(c) Approval will be granted to all applications that meet the QZAB Program requirements as described or referenced in this chapter.

(d) If a district's application is approved, the Division will notify the district that a qualified zone academy or academies in the district is/are eligible for QZAB funding. The Division will also provide by copy to the NJEDA notice of district eligibility for QZAB funding. State share funded through QZAB financing will be available in the same way that State share funded through other financing is available for school facilities projects approved pursuant to EFCFA, that is, available pursuant to N.J.S.A. 18A:7G-5, 9, 10, or 15 as applicable.

(e) If an application does not meet the QZAB Program requirements, the Division shall notify the district in writing, informing it of the reason for the denial.

6A:25-3.3 Appeals of Division and Commissioner determinations

Appeals of Division and Commissioner determinations with respect to the QZAB Program shall be made in accordance with N.J.A.C. 6A:26-17.1.